

FILED '07-PR 20 134 AUSE-ORE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

THOMAS RAY,

Petitioner,

Civil No. 07-92-TC

v.

FINDINGS AND
RECOMMENDATION

STATE OF OREGON,

Respondent.

COFFIN, Magistrate Judge.

By Order (#5) entered February 20, 2007, petitioner was allowed 30 days to file an amended petition and advised that failure to do so would result in the dismissal of this proceeding for failure to prosecute. Petitioner has not filed an amended petition or requested an extension of time in which to do so. Petitioner's Petition (#2) should be denied without

prejudice.¹ This proceeding should be dismissed.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten days from the date of service of a copy of this recommendation within which to file specific written objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issue and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 23 day of April, 2007



Thomas M. Coffin
United States Magistrate Judge

¹Petitioner's petition in this case is substantially identical to his petition in 07-115-TC and apparently challenges the same convictions giving rise to petitioner's claims in that case.